

Applicant : Mathur, et al.
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Attorney's Docket No.: 09010-045US1 / DIVER1230-1

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REMARKS

Status of the Claims

Pending claims

Claims 1 to 11 and 13 to 30 are pending

Claims amended and added in the instant amendment

In the present response, claims 1 to 6, 8 to 11, 13 to 18, 20 and 21 are amended, new claims 31 to 44 added, claims 22 to 30 are canceled without prejudice. Accordingly, after entry of the instant amendment, claims 1 to 11, 13 to 23 and 31 to 44 pending and under examination.

Applicants respectfully request entry of the amendments set forth in this response under 37 CFR §1.116. The amendments place the case in condition for allowance and place the case in better condition for appeal; the amendments do not raise any issues of new matter; and the amended claims do not present new issues requiring further consideration or search.

Both before and after the above changes, and the addition of new claims, the invention was described in full, clear, concise, and exact terms and met all conditions for patentability under 35 USC 101 et seq. The scope of the claims of any resulting patent (and any and all limitations in any of said claims) shall not under any circumstances be limited to their literal terms, but are intended to embrace all equivalents.

Allowed claims

Applicants thank the Examiner for finding claims 1 to 11, 13 and 15 to 20 allowable.

Outstanding Objections and Rejections

Claims 14 and 21 are objected to for informalities. Claims 29 and 30 are rejected under 35 U.S.C. §112, second paragraph. Claims 22 to 28, 29 and 30 are rejected under 35 U.S.C. §112, first paragraph. Claims 22 to 28, 29 and 30 are rejected under 35 U.S.C. §102(e) for allegedly being anticipated by U.S. Patent No. 5,792,903 to Hirschberg et al., filed March 7, 1995, and is a CIP of an application filed October 25, 1993 (hereinafter "Hirschberg").

Applicants respectfully traverse all outstanding objections to the specification and claims and rejections of the claims.

Support for the Claim Amendments

Support for the claim amendments can be found throughout the specification. For example, support for claims directed to nucleic acids and polypeptides having various sequence identities to exemplary sequences of the invention can be found, inter alia, on page 19, second paragraph, the paragraph spanning pages 22 to 23, and the second full paragraph of page 23, of the specification. For example, support for claims directed to nucleic acids of varying length can be found, inter alia, on the paragraph spanning pages 21 and 22. Support for claims directed to polypeptides having alkaline phosphatase or other activities can be found, inter alia, on page 41, third and fourth full paragraphs, of the specification. Accordingly, Applicants respectfully submit that no new matter is introduced by the instant amendments.

Claim objections

Claims 14 and 21 are objected to for informalities. The instant amendment addresses this issue.

Issues under 35 U.S.C. §112, second paragraph

Claims 29 and 30 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite.

Applicants respectfully traverse, for reasons cited, inter alia, in their response of January 17, 2003. However, merely to expedite issuance of the allowed claims, claims 29 and 30 are canceled, without prejudice, in the instant amendment. Applicants reserve the right to prosecute the invention set forth in claims 29 and 30 in continuation applications.

Issues under 35 U.S.C. §112, first paragraph

Claims 22 to 28, 29 and 30 are rejected under 35 U.S.C. §112, first paragraph, as allegedly being indefinite.

Applicants respectfully traverse, for reasons cited, inter alia, in their response of January 17, 2003. However, merely to expedite issuance of the allowed claims, claims 22 to 28, 29 and 30 are canceled, without prejudice, in the instant amendment. Applicants reserve the

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right to prosecute the invention set forth in claims 22 to 28, 29 and 30 in continuation applications.

Issues under 35 U.S.C. §102

Claims 22 to 28, 29 and 30 are rejected under 35 U.S.C. §102(e) for allegedly being anticipated by Hirschberg, U.S. Patent No. 5,792,903.

Applicants respectfully traverse, for reasons cited, inter alia, in their response of January 17, 2003. However, merely to expedite issuance of the allowed claims, claims 22 to 28, 29 and 30 are canceled, without prejudice, in the instant amendment. Applicants reserve the right to prosecute the invention set forth in claims 22 to 28, 29 and 30 in continuation applications.

CONCLUSION

In view of the foregoing amendment and remarks, it is believed that the Examiner can properly withdraw the rejection of the pending claims under 35 U.S.C. §112, first and second paragraphs and 35 U.S.C. §102(e). Applicants believe all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If necessary, please apply additional and necessary charges, and apply all credits, to Deposit Account No. 06-1050.

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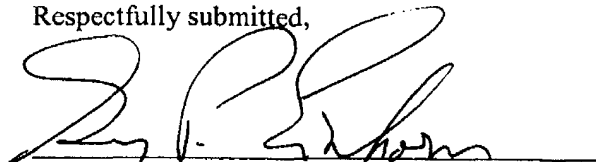
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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (858) 678-5070.

Respectfully submitted,

Date:

Aug. 19, 2003



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